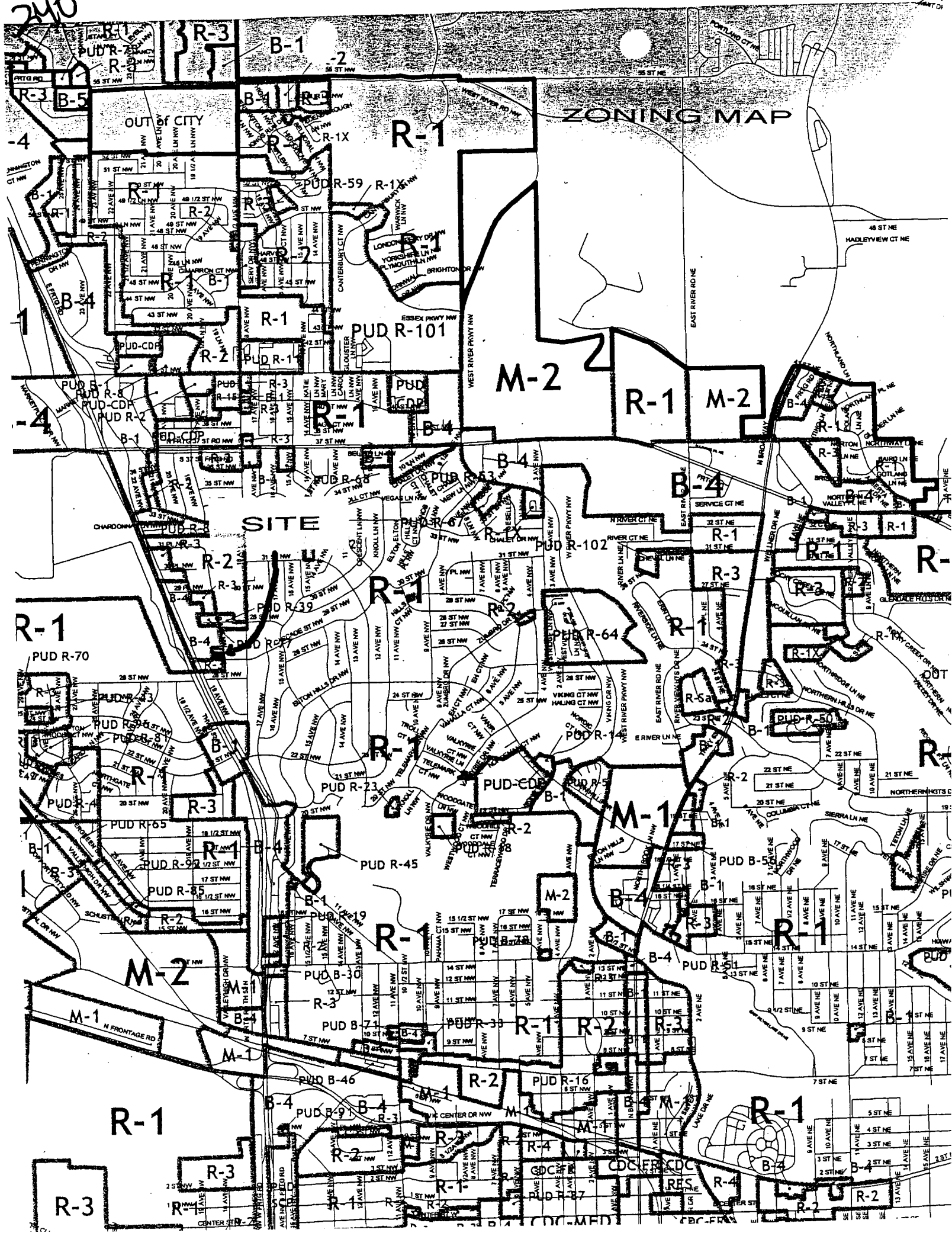


MEETING
DATE: 4-7-03

MEETING

DATE: 4-7-03

AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. E-9
ITEM DESCRIPTION: Zoning District Amendment #03-07 by Jerry Rishavy to re-zone approximately .53 acres of land from the R-3 (Medium Density Residential) district to the B-4 (General Commercial) district. The property is located along the east side frontage road of T.H. 52, north of 26 th Street NW and south of Park Place Motors. The westerly portion of the lot was rezoned to the B-4 district in 2002.		PREPARED BY: Brent Svenby, Planner
April 1, 2003 <i>NOTE: See comments + CPZC minutes from previous LUPA hearing.</i>		
<u>City Planning and Zoning Commission Recommendation:</u>		
The City Planning and Zoning Commission held a public hearing on March 12, 2003 to consider this zone change. The Commission also reviewed a Land Use Plan Amendment and GDP for the property.		
The Commission reviewed the zone change request based on the criteria as included in the staff report and recommended denial, with staff suggested findings.		
Motion by Mr. Staver, seconded by Mr. Hodgson to recommend denial of Zoning District Amendment #03-07, with staff-recommended findings. Motion carried 6-2, with Mr. Quinn and Mr Burke voting nay.		
<u>Planning Staff Recommendation:</u>		
See attached staff report dated March 6, 2003.		
<u>Council Action Needed:</u>		
<i>If the Council wishes to proceed with the zone change as petitioned, it should instruct the City Attorney to prepare an ordinance that can be adopted supported by findings of fact and conclusions of law to amend the Zoning District.</i>		
<u>Attachments:</u>		
1. Staff Report dated March 6, 2003 2. Minutes of the March 12, 2003 CPZC Meeting (attached to LUPA RCA)		
<u>Distribution:</u>		
1. City Clerk 1. City Administrator 2. City Attorney: Legal Description attached to LUPA 3. Planning Department File 4. Applicant: This item will be considered sometime after 7:00 p.m. on Monday, April 7, 2003 in the Council/Board Chambers at the Government Center, 151 4th Street SE. 6. McGhie & Betts, Inc.		
COUNCIL ACTION:		
Motion By:	Seconded By:	Action:

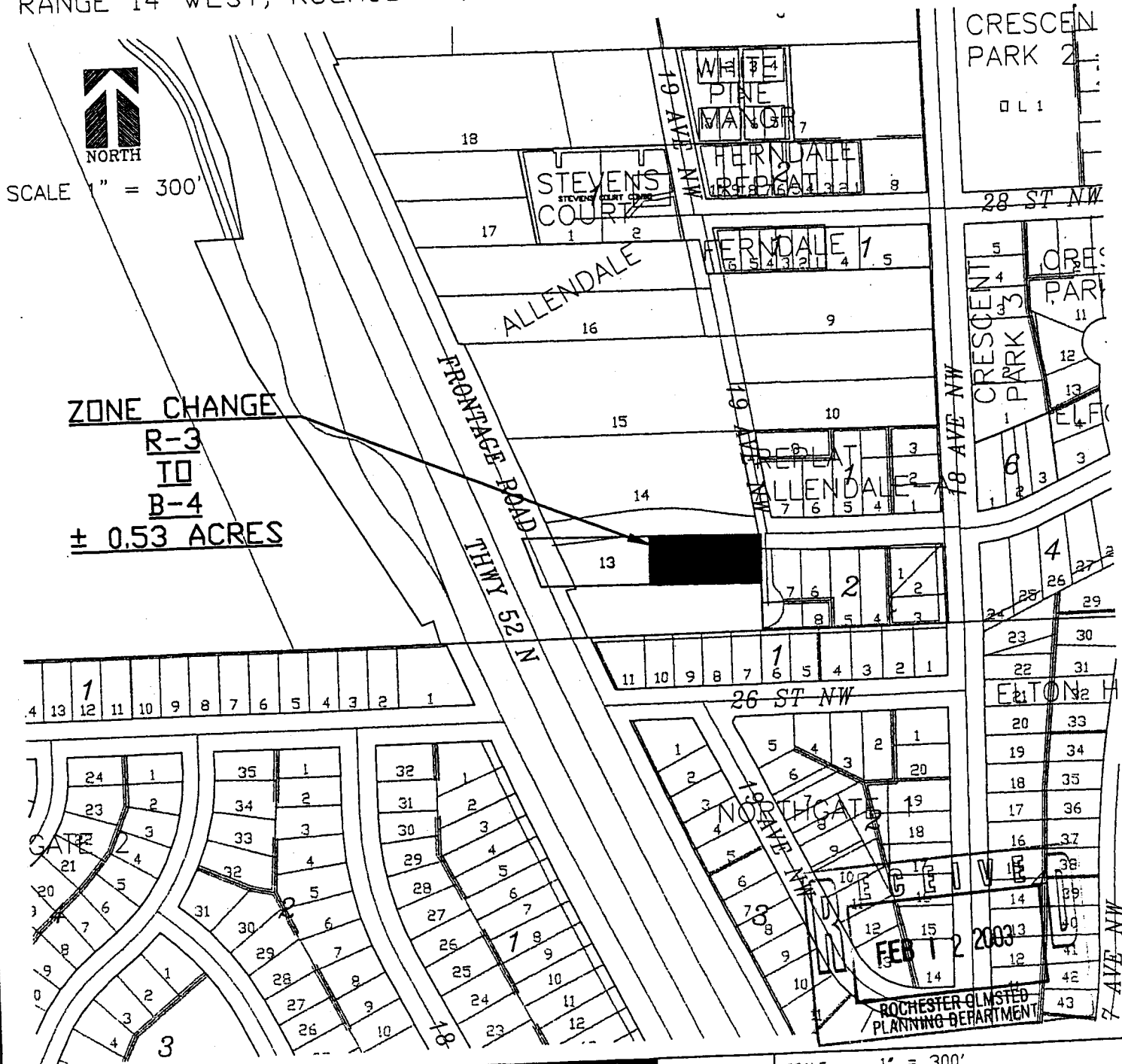


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ZONE CHANGE EXHIBIT

DESCRIPTION:

The east 229.00 feet of Lot 13, ALLENDALE- A SUBDIVISION OF THE SOUTHWEST QUARTER OF SECTION 22 TOWNSHIP 107 NORTH RANGE 14 WEST, Rochester, Minnesota.



FOR: JERRY RISHAVY
SHORT LINE AUTO, INC.
2622 HWY 52 NORTH
ROCHESTER, MN
55901

Land Surveying
Urban-Land
Planning
Consulting - Civil
Engineering

1648 Third Avenue SE
Rochester, MN 55904
Telephone: 507.288.3818
Facsimile: 507.289.7333

McGhie



Betts, Inc.

Geotechnical
Engineering
Construction Material
Testing
Landscape
Architecture

email: mbi@mcghebetta.com

SCALE: 1" = 300'

DRAWN BY: JJJ

DATE: 02/12/03

ACCT. NO.: 7238/3031

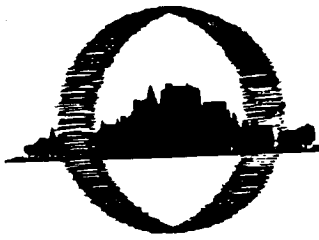
Cadd No. 3031ZONE

FILE NO.: BK.

PG.

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ROCHESTER-OLMSTED PLANNING DEPARTMENT
2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744



COUNTY OF
Olmsted



TO: City Planning and Zoning Commission

FROM: Brent Svenby, Planner

DATE: March 6, 2003

RE: Zoning District Amendment #03-07 by Jerry Rishavy to re-zone approximately .53 acres from the R-3 (Medium Density Residential) district to the B-4 (General Commercial) zoning district. The property is located along the east frontage road of T.H. 52, north of 26th Street NW.

Planning Department Review:

Petitioner/Property Owner:

Jerry Rishavy
4741 Common Place NW
Rochester, MN 55901

Consultant:

McGhie & Betts, Inc.
1648 3rd Avenue SE
Rochester, MN 55904

Location of Property:

The property is located along the east frontage road of T.H 52, north of 26th Street NW.

Requested Action:

The applicant is requesting to rezone .53 acres of land from the R-3 (Medium Density Residential) to the B-4 (General Commercial) zoning district. The rezoning request on for the westerly portion of the lot. The easterly portion was rezoned to the B-4 district in 2002.

Existing Land Use:

Single family home on the property has been converted into the office for the Short Line Auto sales lot which is located on the westerly portion of the property. The portion of the property with the auto sales lot is zoned B-4.

Proposed Land Use:

The applicant has also filed a Land Use Plan amendment and a General Development Plan # 204 to be known as Rishavy Property to change the land use designation on .53 acres from medium density residential to general commercial. No specific use is identified on the GDP, just all uses allowed in the B-4 zoning district.

Adjacent Land Use and Zoning:

East: Property zoned R-1 (Mixed Single Family) and developed with single family homes.



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South: Property to the south is zoned R-3 (Medium Density Residential) on the City of Rochester Zoning Map. Currently a church is being constructed on the back of the lot.

North: Across a drainage corridor is Park Place Motors which is zoned B-4 (General Commercial).

West: Highway 52 is located to the west. Across Highway 52 is property zoned M-2 (Industrial).

Transportation Access:

Access to this property is from the Frontage Road. There is a 32 foot wide access opening that is shared with the property to the south. The existing driveway serves the office.

Wetlands:

According to the Olmsted County Soil Survey, hydric soils exist on the site. Prior to any development on the site, a wetland investigation needs to be completed and appropriate information submitted to the Local Government Unit.

Neighborhood Meeting:

A neighborhood meeting was held on Wednesday February 26, 2003. A summary of the meeting is attached.

Referral Comments:

1. Planning Department - Wetlands
2. Rochester Public Works
3. RPU - Water Division
4. Fire Department
5. RPU - Operations Division

Report Attachments:

1. Location Map
2. Area Zoning Map
3. Referral Comments – see GDP report
4. Neighborhood Meeting Summary – see land use plan amendment report

Analysis for Zoning District Amendment:

Under the provisions of Paragraph 60.338 of the Rochester Land Development Manual, the Commission shall recommend for approval and the Council shall approve, an application requesting an amendment to the zoning map if the amendment satisfies the following criteria:

- 1) The criteria of this subdivision apply to those amendments to the zoning map filed by formal petition. An amendment need only satisfy one of the following criteria:
 - a) The area, as presently zoned, is inconsistent with the policies and goals of the Comprehensive Plan;
 - b) The area was originally zoned erroneously due to a technical or administrative error;

- c) While both the present and proposed zoning districts are consistent with the Plan, the proposed district better furthers the policies and goals of the Comprehensive Plan as found in Chapters 2 and 3 of the Rochester Urban Service Area Land Use Plan, Chapter 3 of the Housing Plan, and Chapter 10 of the ROCOG Long Range Transportation Plan; or
- d) The area has changed or is changing to such a degree that it is in the public interest to rezone so as to encourage development or redevelopment of the area.

The areas adjacent to the R-3 district portion of the property consist of R-3 zoning to the north and south and R-1 zoning to the east. The R-3 zoning acts a transition zone, buffering the lower intensity uses (R-1 zoning) for the higher intensity uses (B-4).

It appears that the property was not zoned erroneously and that the present zoning is not inconsistent with the Comprehensive Plan. The entire lot was zoned R-3 until last year at which time the westerly portion of the property was rezoned to the B-4 zoning district. The rezoning of the westerly portion allowed for the development of higher intensity commercial uses while keeping the easterly portion in a lower intensity zoning district. While the easterly portion of the lot stayed in the R-3 zoning district the use changed from a single family home into an office for the auto sale lot located on the westerly portion of the lot. Establishing an office in the R-3 zoning district is a permitted use. By keeping this portion of the lot zoned R-3 provides the neighborhood to the east a sense of buffering of the commercial use established on the westerly portion of the lot.

The Rochester Urban Service Area Land Use Plan designates this property as appropriate for "medium density residential" types of uses. A Land Use Plan amendment is being considered concurrent with this application. If the Land Use Plan amendment from "medium density residential" to "commercial" is approved, zoning the .56 acres of land to B-4 (General Commercial) would be consistent with a "commercial" land use designation.

- 2) The criteria of this subdivision also apply to those amendments to the zoning map filed by formal petition. However, an amendment must satisfy all of the following criteria:
 - a) the permitted uses allowed within the proposed zoning district will be appropriate on the subject property and compatible with adjacent properties and the neighborhood; and

Though uses permitted in the proposed B-4 (General Commercial) district may be appropriate on the property, they are less likely to be compatible with the adjacent residential neighborhood than uses in the existing R-3 (Medium Density Residential) district. The current use of this portion of the lot, as an office of the auto sale lot, is a conforming use the R-3 zoning district.

- b) the proposed amendment does not involve spot zoning. (Spot Zoning involves the reclassification of a single lot or several small lots to a district which is different than that assigned to surrounding properties, for reasons inconsistent with the purposes set forth in this ordinance, the state enabling legislation, or the decisions of courts in this state).

The amendment to B-4 would be consistent with the Rochester Urban Service Area Land Use Plan, if the Land Use Plan Amendment which is being considered

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concurrently is approved, and adjacent to property currently zoned B-4. The proposed amendment would not be considered spot zoning.

Staff Recommendation:

It does not appear as though the findings support this zone change request. If the Planning Commission or City Council determines that this request should be approved, new findings will need to be specified.

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